

CEQA / EIR Workshop

SEGA Advisory Committee

November 8, 2007



Objectives

- How and why CEQA came into being
- How it works (and doesn't work)
- How it relates to the SEGA Planning process



CEQA History

- CEQA Enacted in 1970
- Outgrowth of the environmental movement of the 1960s. (Reagan signed law)
- Patterned after NEPA (adopted in 1969) (Nixon signed law)



Perceived Problem

- Public agencies were making environmentally damaging decisions without public input and disclosure, and without coordination with other public agencies.



CEQA Purpose

- Disclose environmental impacts to decision makers and public
- Identify ways to avoid and prevent environmental damage
- Provide reasons to the public for approval of projects that damage the environment
- Encourage interagency cooperation
- Enhance public participation in the planning process



Friends of Mammoth Decision (1972)

- When CEQA adopted, it applied only to governmental projects (not private development projects)
- CA Supreme Court ruled that CEQA applies to any discretionary action affecting the physical environment that requires a governmental permit or approval.



NEPA and Other states

- NEPA applies only to projects the federal government undertakes, approves or funds.
- 14 states and DC now have environmental quality acts but few apply to private projects like CEQA and none are as rigorous as CEQA.



How does CEQA work in practice?

Key Determinations

1. Determine whether a project is exempt
2. If not exempt, prepare Initial Study to determine whether project may have significant impacts
3. If so, prepare Environmental Impact Report. If not, prepare Negative Declaration.



Environmental Impact Report (EIR)

- EIR is the backbone of CEQA implementation
- Relatively few EIRs prepared compared to Negative Declarations
- EIRs tend to be expensive, time consuming and are usually done only for large complex projects



Key Considerations in an EIR

- Fully disclose all potential environmental impacts of a project
- Determine which impacts are “significant”
- Identify feasible mitigation measures to avoid or reduce the impacts
- Consider a reasonable range of alternatives
- Address the cumulative impacts of the project
- Identify significant unavoidable impacts



Process Basics

- Notice of Preparation (30 days)
- Draft EIR (45 day public review)
(Both the NOP and DEIR include wide distribution to agencies and public)
- Final EIR:
 - Must respond in writing to all comments received
 - Changes or corrections to Draft EIR
 - Mitigation Monitoring/Reporting Program
 - Must be provide to agencies that commented 10 days prior to certification hearing



EIR Adoption/Certification

- Must make findings for every significant impact:
 1. Changes or alterations have been incorporated in project to reduce impact to insignificance;
or
 2. Such changes or alterations are within the jurisdiction of another agency;
or
 3. Mitigation measures or alternatives are infeasible due to specific economic, social, legal, technological or other considerations



CEQA an informational process

- Does not control land use or mandate disapproval of projects
- It does require adoption of feasible mitigation measures or alternative to reduce impacts
- Projects with significant unavoidable impacts can be approved with Statement of Overriding Considerations



Statement of Overriding Considerations

- Allows an agency to weigh the benefits of a project against the environmental impacts.
- If the benefits outweigh the impacts then the project can be approved.
- Makes an agency disclose its values when it approves a project.
- Must be supported by substantial evidence.



CEQA Enforcement

- No CEQA police or agency entrusted with enforcement
- Largely enforced by citizen or agency lawsuits



Litigation

- 250 published appellate court cases (and many more that have been settled or didn't get that far.)
- Cases have expanded CEQA's scope and requirements over time
- Have not necessarily made things any clearer or easier to interpret
- CEQA is an appealing target for project opponents



SEGA Plan EIR

- Final stages of hiring EIR consultant
- EIR consultant will be integrated in all stages of plan development
- Concept of “self-mitigated” plan: design the plan up front for the express purpose of reducing environmental impacts



Most Important Issues

- Air Quality
 - Direct effect on public health
 - Greenhouse Gas/Global Warming
- Loss of Agricultural Land
 - Prototype of how to develop compact, efficient, livable communities
- Water
 - Groundwater resources limited
 - Will need surface water



Fundamental Challenge

- How do we grow in a way that allows us to provide housing and employment opportunities for our citizens, while making sure we are able to breathe, eat and have water?
- SEGA plan and EIR will hopefully set the example for how we can grow responsibly

